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13 Attorneys for Non-Party C.W.,
14 a minor and through his Guardian, Rebecca White.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
[SAN FRANCISCO DIVISION]

K.W., a minor, by and through K.W.'s guardian,
Jillian Williams, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

EPIC GAMES, INC.,

Defendant.

Case No. 3:21-cv-00976-CRB

**NON-PARTY C.W.'S REPLY TO
OPPOSITION TO SEAL AND ENJOIN
PLAINTIFFS AND COUNSEL FROM
FUTURE BREACHES**

CLASS ACTION

The Hon. Judge Charles R. Breyer

Trial Date: None Set

REPLY TO OPPOSITION TO SEAL AND ENJOIN FUTURE BREACHES

C.W. is not a party to this case or to the *Zanca* matter in North Carolina. He dismissed his claims against defendant Epic Games, Inc., and does not wish to have further involvement in litigation. One LLP formerly represented C.W.; One LLP undisputedly knows that the information they have made public about C.W. is confidential and that they only learned it because they filed an attorneys' lien against C.W. and his mother; and One LLP is using this information improperly to aid the fee-driven objection they have filed in North Carolina. C.W. has nothing to do with this dispute and asks only that (1) the information One LLP included about him in the public docket of this case be sealed, and (2) this Court direct Plaintiffs' counsel in this case to desist from further references to C.W.'s confidential information.

Plaintiffs' objection that C.W. cannot seek this relief with moving to intervene as a plaintiff in this case lacks merit. It is routine, for example, for persons and entities that receive third-party subpoenas to come to court seeking confidential treatment for the information they provide.¹ Here, not only is the information at issue confidential, but One LLP agreed by email dated February 9 to preserve the confidentiality of that information. They admit as much. (*See* ECF 33 Response at 2 n.1.) There is no excuse for their violation of their agreement and their former client's clearly expressed wishes.

Brooks v. Seattle Housing Authority, No. C12-0878-JCC, 2017 WL 6310481 (W.D. Wash. Dec. 11, 2017), which Plaintiffs' counsel cite, is not on point. In *Brooks*, an employee of the defendant submitted a sworn declaration, publicly, in the case. Two years later, the employee moved the court to seal his declaration. The court held that request not to be proper. That ruling has no bearing on attorneys sharing confidential information of a former client that was never filed in court. *Aichele v. City of Los Angeles*, No. 12-10863 DMG (FFMx), 201 WL 12130582 (C.D. Cal. June 6, 2013), is even less relevant. In *Aichele*, an arrestee unsuccessfully sought to intervene in a false arrest class action. The failed

¹ Plaintiffs' counsel cite *Apple v. Samsung Electronics Co., Ltd.*, No. 11-CV-1846-LHK, 2013 WL 3958232 (N.D. Cal. July 29, 2013), where a company that had licensed technology to Apple filed a motion to intervene for the limited purpose of asking that the license agreement—which undisputedly was relevant to the court's consideration of the dispute between Apple and Samsung—be sealed. Neither party objected to the licensor's request and the court did not rule that the licensor had to intervene in order to make its request. Here, moreover, the information C.W. seeks to seal has no relevance whatsoever to the dispute between Plaintiffs in this case and Epic Games. Plaintiffs' counsel introduced that information gratuitously to aid their objection to the class action settlement in North Carolina, which would moot this case if finally approved.

1 intervenor’s reply brief made a vague request to enjoin the parties from “introducing ‘matters’ or
 2 ‘discussion’ related to” other cases pending in federal and state court, which the *Aichele* court held to be
 3 unjustified. Here, C.W. asks only that his former attorneys stop using confidential information of his—
 4 information that they explicitly promised to keep confidential—against his wishes.

5 Even if it is true that Epic Games’ counsel disclosed an aspect of C.W.’s confidential information
 6 to Plaintiffs’ counsel here, that disclosure came in the context of knowing that Plaintiffs’ counsel had been
 7 C.W.’s counsel and had a lien pending. Epic Games’ counsel knew that Plaintiffs’ counsel either already
 8 had learned or soon enough would learn the circumstances of C.W.’s dismissal of his claims, and on the
 9 same day of Plaintiff’s counsel’s alleged conversation with Epic Games’ counsel—February 9—One
 10 LLP’s John Lord emailed the undersigned and confirmed that he would preserve the confidentiality of
 11 C.W.’s information. Confidentiality applies to all parties, the first line of the confidentiality provision is
 12 sufficient and states so. (ECF 32, Brahmbhatt Decl. ¶ 9.) Plaintiffs’ counsel’s contention, therefore, that a
 13 conversation with Epic Games’ counsel justifies their violation of C.W.’s confidences, is flatly wrong.

14 Even after filing of this motion, Plaintiffs’ counsel actively continue to publicly disparage former
 15 client, C.W.’s dismissal and continue to breach his confidentiality. Plaintiffs’ counsel filed a notice in the
 16 closed C.W. action (N. D. Cal. Civ. No. 4:19-cv-3629-YGR, ECF 104) and statements in filing an
 17 objection in the class action settlement in North Carolina *Zanca, et al. v. Epic Games, Inc.*, No. 21-CVS-
 18 534 (N.C. Super. Ct., Wake County) on Monday April 12, 2021. In those filings, Plaintiffs’ counsel
 19 appear to confuse the plain meaning of “concealing” versus “filing under seal.” Even if the purported
 20 reason that disclosure is required by law is true (which is clearly not true here), Plaintiffs’ counsel
 21 necessarily have a duty to file under seal and not make a public disclosure.

22 For these reasons, and as discussed in C.W.’s motion, C.W. respectfully requests that the Court
 23 seal any references to underlying circumstances related to his dismissal and direct Plaintiffs’ Counsel not
 24 to engage in further public discussions of C.W.’s confidential information.

25
 26 Respectfully submitted,

27 DATED: April 14, 2021

/s/ Deepali A. Brahmbhatt

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